

**FILED**  
Clerk  
District Court

**JUL 31 2008**

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

CARLSMITH BALL LLP  
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Attorneys for Defendant and  
Third-Party Plaintiff, Bank of Hawaii

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS

LAW OFFICE OF  
DOUGLAS F. CUSHNIE,  
a sole proprietorship, and  
DOUGLAS F. CUSHNIE,  
individually,  
Plaintiffs,  
vs.  
BANK OF HAWAII, and  
MARY ROE and JOHN DOE,  
Defendants.

CIVIL ACTION NO. 07-0020

DEFENDANT AND THIRD PARTY  
PLAINTIFF BANK OF HAWAII'S  
MOTION TO EXTEND TIME TO  
DISCLOSE EXPERT WITNESS;  
DECLARATION OF JOHN D. OSBORN

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Judge: Alex R. Munson

BANK OF HAWAII,  
Third-Party Plaintiff,  
vs.  
LUCY M. DL GUERRERO,  
Third-Party Defendant.

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1 Comes now the Defendant and Third Party Plaintiff Bank of Hawaii ("Bank") and moves  
2 the Court for an Order extending the date for disclosure of its expert witness(es). In support of  
3 said Motion Bank would show as follows:

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5 1. Pursuant to the Court's Case Management Scheduling Order filed March 21, 2008, the  
6 Defendant and Third Party Plaintiff's expert disclosure is to be made on August 1, 2008.

7 2. F. R. C. P. 26(a)(2) requires that unless otherwise stipulated or ordered by the court the  
8 expert witness disclosure must be accompanied by a written report prepared and signed by the  
9 witness which shall include those matters set forth in F.R.C.P. 26(a)(2)(B)(i- vi).

10 3. At the present time Bank is waiting for responses to discovery requests submitted to  
11 Plaintiff. By agreement of the parties the time to respond to these discovery requests has been  
12 extended to August 13, 2008.

13 4. After receipt of the responses from Plaintiff to Bank's discovery requests, Bank  
14 anticipates it will schedule the deposition of Plaintiff, Douglas F. Cushnie, and Third Party  
15 Defendant, Lucy M. DL Guerrero at the earliest possible date.

16 5. Until Plaintiff's discovery responses have been received and Mr. Cushnie and Ms. DL  
17 Guerrero have been deposed, Bank's anticipated expert witness(es) cannot prepare a report that  
18 complies with the requirements of F.R.C.P. 26(a)(2).

19 6. Counsel for the Bank has communicated via e-mail with Mr. Cushnie to request that a  
20 stipulation to extend the date for disclosure of expert witnesses for 45 -60 days be entered into.  
21 Mr. Cushnie is unwilling to enter into such a stipulation, but does not object to an extension of  
22 time into the week of August 4, 2008 so this Motion to Extend Time to Disclose Expert Witness  
23 can be heard.

24 7. Bank requests a sixty (60) day extension to disclose its expert witness(es). The Case  
25 Management Scheduling Order states that expert discovery is to be completed by November 14,  
26 2008 and the requested extension will not interfere with that date nor other scheduled dates.

27 WHEREFORE, Bank of Hawaii moves the Court for an Order extending the date for  
28 disclosure of its expert witness(es) from August 1, 2008 to October 1, 2008.

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CARLSMITH BALL LLP

DATED: Saipan, MP, July 31, 2008.

/s/ John D. Osborn  
JOHN D. OSBORN  
SEAN E. FRINK  
Attorneys for Defendant and  
Third Party Plaintiff, Bank of Hawaii

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individually,

Plaintiffs,

vs.

BANK OF HAWAII, and  
MARY ROE and JOHN DOE,

Defendants.

CIVIL ACTION NO. 07-0020

DECLARATION OF JOHN D. OSBORN

BANK OF HAWAII,

Third-Party Plaintiff,

vs.

LUCY M. DL GUERRERO,

Third-Party Defendant.

1 I, John D. Osborn, declare:

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3 1. I am a partner in the Saipan office of Carlsmith Ball LLP, counsel of record for  
4 Defendant and Third Party Plaintiff Bank of Hawaii ("Bank"). I have personal knowledge of the  
5 matters stated herein and would be competent to testify to same if called upon to do so.

6 2. Bank is currently awaiting receipt of responses to discovery requests which have been  
7 submitted to Plaintiff, by agreement of the parties those responses are due on August 13, 2008.

8 3. Upon receipt of the discovery responses from Plaintiff Bank will move forward to depose  
9 Douglas F. Cushnie and Lucy M. DL Guerrero as expeditiously as possible.

10 4. Until the discovery responses are received from Plaintiff and the depositions of Mr.  
11 Cushnie and Ms. DL Guerrero have been completed the anticipated expert witness(es) of the  
12 Bank will be unable to prepare written report(s) in conformance with F.R.C.P 26(a)(2).

13 5. In e-mail communications with Mr. Cushnie he had advised that he is unwilling to enter  
14 into a stipulation to extend the date for expert disclosure for a period of 45-60 days as requested  
15 by counsel for the Bank, however Mr. Cushnie advises that he does not object to an extension of  
16 time into the week of August 4, 2008 so that a Motion To Extend Time To Disclose Expert  
17 Witness can be heard.

18 I declare under penalty of perjury that the foregoing is true and correct. This Declaration  
19 is made on July 30, 2008 in Hot Springs, Arkansas.

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21 /s/ John D. Osborn  
22 JOHN D. OSBORN  
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